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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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Attorney for Objectors
Pro Se Objector

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

KEVIN EMERY, an individual, on behalf of himself, the general public and those similarly situated	) Case No.: CV-09-1808 (JW)
Plaintiff,	) MOTION FOR WITHDRAWAL OF
	) OBJECTORS ENZO R. AND MIA G.
v.	) CANNATA'S, MOTION TO SUBSTITUTE
ACER AMERICA CORPORATION; AND DOES 1 THROUGH 50	) CLASS MEMBER SAM P. CANNATA AS
Defendants.	) OBJECTOR ADOPTING AND
	) INCORPORATING
	) OBJECTIONS TO CLASS ACTION
	) SETTLEMENT
	) Trial Judge: Honorable James Ware

Enzo R. Cannata and Mia G. Cannata ("Acer Owners"), by and through their counsel, respectfully requests that this Court grant its motion for withdrawal as Objectors to the Class Action Settlement submitted January 20, 2012, Motion to Intervene and Objections to Class Action Settlement, hereafter, "Objection," Docket Item No. 200. Acer Owners are minors and received their respective Acer AS 1410 computers, serial numbers LXSAB0X06693110F942500 and LXSAB0X0739311240D2500 as a gift. Therefore they may not be true Class Members as defined by the Notice of Class Action Settlement ("Notice") which states that "you are a member

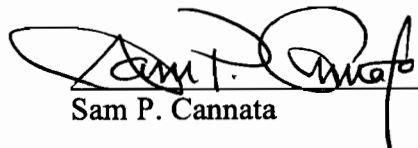
1 of the class if you **purchased** an Acer computer in the United States between March 24, 2005
2 and May 1, 2011.”

3 Sam P. Cannata (“Objector”) Class Member hereby adopts and incorporates, in full, all
4 the objections stated in the Objection, put forth by the Acer Owners and respectfully moves this
5 Court to substitute Objector as the bona fide objector and class member. Objector represents to
6 the court that he is a Class Member, qualified to make a claim as set forth in the Notice as he
7 purchased the Acer AS 1410 computers, serial numbers LXSAB0X06693110F942500 and
8 LXSAB0X0739311240D2500. The computers were purchased by the Objector and gave them
9 as gifts to Acer Owners between March 24, 2005 and May 1, 2011. Proof of his class
10 membership is attached hereto as Exhibit “A”.
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13 For the foregoing reasons, Objector prays that this Honorable Court:

- 14 A. Grant Enzo R. and Mia G. Cannata’s Motion for Withdrawal;
15 B. Grant its Motion be substituted as the bona fide objector and class member
16 adopting and incorporating, in full, all the objections stated in the Objection, Docket Item
17 No. 200;
18 C. Sustain the Objections in full;
19 D. Deny approval of the settlement, for the reasons stated herein;
20 E. Continue the issue of attorneys’ fees and awards for a subsequent hearing after the
21 claims period ends, the claims data has been reviewed and the actual value of the settlement has
22 been assessed.
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Respectfully submitted,


Sam P. Cannata

Attorney for the Objectors Enzo R. and
Mia G. Cannata, Pro Se Objector

CERTIFICATE OF SERVICE

I hereby certify that on February 1, 2012, I delivered the foregoing document to be filed by Federal Express to the Clerk of Court, United District Court, Northern District of California, San Francisco Division, 450 Golden Gate Avenue, San Francisco, CA 94102.

I further certify that I mailed the foregoing document by First Class Mail, postage prepaid, to the following participants at the mailing addresses listed:

Plaintiff's Counsel

Adam Gutride
Gutride Safier LLP
835 Douglass St.
San Francisco, CA 94114

Acer's Counsel

Jeff McFarland
Quinn Emanuel Urquhart & Sullivan LLP
865 S. Figueroa Street, 10th Floor
Los Angeles, CA 90017



Sam P. Cannata

Attorney for the Objectors Enzo R. and
Mia G. Cannata, Pro Se Objector

EXHIBIT A**Sam Cannata**

From: Acer Recovery
Sent: Wednesday, November 09, 2011 9:09 PM
To: samcannata1@roadrunner.com
Subject: Notice of Class Action and Proposed Settlement

You are receiving this notice because, according to our records, you purchased an Acer AS1410 computer, bearing serial number LXSAB0X0739311240D2500.

If you purchased an Acer computer in the United States between March 24, 2005 and May 1, 2011, read this notice.

You may be affected by a class action settlement. In the settlement, purchasers of Acer computers who file a claim form may receive free recovery utilities, computer equipment, repair services, or cash refunds. Class members also can choose to be excluded from the settlement, or object to it.

Am I included?

You are a class member if you purchased an Acer computer with Microsoft Windows between March 24, 2005 and May 1, 2011.

What's this about?

A lawsuit claims that Acer recovery disks do not provide access to all recovery utilities in the Microsoft Windows operating system. It argues that many Acer users will only be able to recover their computers to a "factory default" setting, losing their data and applications, or may not be able to recover at all. The lawsuit claims that Acer should have disclosed these limitations when it advertised that its computers included Microsoft Windows.

Acer denies the claims and contends that Plaintiffs' assertions are factually incorrect. Acer contends that its computers have the complete version of Microsoft Windows, including all recovery features, identical to the version sold by Microsoft and by Acer's competitors. Acer also contends that Acer's marketing was not deficient and was consistent with Microsoft's marketing guidelines for Windows, which Acer was required to follow and which were applied across the computer industry.

The Court has not determined who is correct. To avoid the costs and risks of continued litigation, the parties have agreed to a settlement. The settlement releases all class members' claims against Acer regarding inadequate system or recovery disks and missing features of Windows.

What can I receive?

Class members can choose make a claim in the settlement for benefits under Group A, B or C. Group A will receive a free CD-rom of Windows recovery utilities that can be used with their Acer computers.

Group A claimants also can get Acer to reinstall the Windows operating system on their hard drive, at no charge, if they previously (1) replaced their Acer computer's hard drive, (2) were unable to recover using Acer recovery disks, and (3) contacted the Acer service center for assistance on or before June 3, 2011.

Group B can choose to receive a free USB drive, optical mouse, or webcam if, on or before June 3, 2011, they contacted Acer, an Acer retailer, or a third-party repair technician about recovery problems on their Acer computer or about missing recovery utilities.

Group C will receive reimbursement of the amount they paid (up to \$50) for service on their Acer computer related to a recovery issue, if they previously attempted to recover using Acer recovery disks but were not successful and contacted Acer customer service for assistance.

All claims require a valid Acer serial number. Certain claims require additional documentation, such as proof of purchase. For further details, visit the Settlement Website at: <http://www.acerrecoverysettlement.com>.

How do I make a claim?

To make a claim, you must download the Claim Form from the Settlement Website, fill it out, and mail it with any required documentation to the address shown on the form. Claim Forms are due by March 14, 2012.

What are my other options?

You can exclude yourself from the class if you want to be able to sue Acer separately for the claims released by the settlement. If you exclude yourself, you cannot file a claim or object to the settlement.

Alternatively, you can object to the settlement by filing papers in the U.S. District Court in San Francisco, California (Embry v Acer America Corp., N.D. Cal. 09-cv-01808-JW). If you object to the settlement, you also can ask to appear at the hearing or can hire your own attorney to appear.

You must submit your exclusion or objection by January 23, 2012 by following the instructions at the Settlement Website at: www.acerrecoverysettlement.com.

The Court will hold a hearing on February 13, 2012 to consider whether to approve the settlement. If the settlement is approved, the attorneys for the class will ask the Court to award them \$1,200,000.00 in fees and expenses, and to award \$15,000.00 as an incentive to the Acer customer who started the lawsuit. These amounts would be paid by Acer separately from and in addition to the amounts paid for class members' claims.

For more information, please visit the Settlement Website at <http://www.acerrecoverysettlement.com> or write to the lawyers for the class at: Acer Settlement, Gutride Safer LLP, P.O. Box 460823, San Francisco, CA 94146.

Please DO NOT RESPOND to this email because the mail box is unattended.